

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RANDALL LEVITAN,

Plaintiff,

Case No. 1:23-cv-986

v.

Honorable Ray Kent

UNKNOWN MACLEAN et al.,

Defendants.

/

ORDER OF TRANSFER

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. Plaintiff presently is incarcerated at the Carson City Correctional Facility (DRF) in Carson City, Montcalm County, Michigan, though the events giving rise to Plaintiff's action occurred at the Macomb Correctional Facility (MRF) in New Haven, Macomb County, Michigan. Plaintiff sues Warden Willis Chapman; Corrections Officers Unknown Trolla, Unknown Parr, Unknown Dreadth, Unknown Akomolafe, and Unknown Party #1; Counselors Unknown Van and Unknown Freeman; Nurse Practitioner Unknown Magnuson; Nurses Unknown Maclean, Unknown Johnson, Unknown Hill, and Unknown Silverlight; and Unknown Parties #1, referred to as MRF Nurse Staff/Healthcare. In his *pro se* complaint, Plaintiff alleges that he was denied adequate medical care, in violation of the Eighth Amendment.

Under the revised venue statute, venue in federal-question cases lies in the district in which any defendant resides or in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). The events underlying the complaint occurred in Macomb County. Defendants are public officials serving in Macomb County, and they "reside" in that

county for purposes of venue over a suit challenging official acts. *See Butterworth v. Hill*, 114 U.S. 128, 132 (1885); *O'Neill v. Battisti*, 472 F.2d 789, 791 (6th Cir. 1972). Macomb County is within the geographical boundaries of the Eastern District of Michigan. 28 U.S.C. § 102(a). In these circumstances, venue is proper only in the Eastern District. Therefore:

IT IS ORDERED that this case be transferred to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1406(a). **It is noted that this Court has not decided Plaintiff's motion to proceed *in forma pauperis*, nor has the Court reviewed Plaintiff's complaint under 28 U.S.C. §§ 1915(e)(2), 1915A, or under 42 U.S.C. § 1997e(c).**

Dated: September 26, 2023

/s/ Ray Kent
Ray Kent
United States Magistrate Judge